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ARSON FOR PROFIT



Massachusetts Arson Task Force
Office of Lieutenant Governor Tom O'Neill

Arson Task Force*

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ARSON FOR PROFIT

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The recommendations and opinions presented in this document were agreed upon by majority vote of the Lieutenant Governor's Arson Task Force. Unanimous consent of all members should not be assumed. Dissenting comments can be found in *Arson Task Force Deliberations*.

801/374



THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE DEPARTMENT
STATE HOUSE, BOSTON 02133

THOMAS P. O'NEILL III
LIEUTENANT GOVERNOR

This document details the causes of arson for profit. It is filled with numbers, figures and percentages. That is the very nature of a document describing economic motivation and financial loss. But while we concentrate on the legal and institutional ways to prevent arson for profit, we are constantly aware that the prevention of arson is our major motivation.

The dead and injured, displaced workers, the homeless must be foremost in our minds as we pursue efforts to stop this crime. Desolated neighborhoods, destroyed workplaces, increasing housing shortages all result from arson for profit schemes. It is the human misery caused by arson that stirred members of the Task Force to give so much of their time and energy.

Because we are discussing a violent crime which is also an economic crime, we must deal in numbers. Firefighter Gerald Hogan has described, however, with eloquence we could not hope to match, the real tragedy of arson. To understand our commitment to stopping this epidemic, read his words.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas P. O'Neill".

THOMAS P. O'NEILL, III
Lieutenant Governor

A punishment to fit the horror of the crime

By GERALD HOGAN

At 36 minutes past 3 o'clock in the morning on Oct. 28 we responded on Engine 43 with one officer and three firefighters from 920 Mass. ave. to a fire at 623-525 East 5th street.

On the way to the fire we got a preliminary report over the Fire Department radio from the first engine on the scene. "Fire showing," they said. I envisioned in my mind a large body of fire coming from the building. As the apparatus moved through the night we got into our rubber coats and gas masks. We knew that we were responding to a definite fire and not a false alarm.

We traveled up Columbia road to L street, then turned left. On the way up L street we can see the fire roaring from a building at L and 5th. We make a quick stop at L and 6th to hook up our fire hose to a hydrant, then proceed to the fire building. A young woman is standing in the street. She is wearing what was once a white cotton nightgown. Black soot is in her hair and on her face. Tears on each cheek cut a groove through the hopeless look. She is barefoot.

I leap from the apparatus to order my men into action. As an engine company, we must get water to the seat of the fire. She interrupts me—she is in front of me—places a hand on me to get my attention. "My baby is still in there." "What floor?" I ask quickly as I move toward the building. "The first," she says and points to a window. Fire is belching out of that window. I look at her, search myself momentarily for a comforting word, but can't find one.

My men and I approach the fire from the rear door on L street. There is plenty of fire. We turn our hose on and go to work. We move in about 10 feet inside on the first floor. The fire is racing across the ceiling over our heads. The cool water from the hose strikes the fire overhead, then returns scalding hot to us. Below, our bodies are covered with protective clothing. We are not

harmed by the toxic fumes or smoke. Each man has an air supply strapped to his back. It is cool and refreshing when I inhale through the face piece on my gas mask.

I hear someone moan. I check with my men and they are all okay. Then I hear the moan again. My light will not pierce through the pitch-blackness. I groped around on the floor. I felt his head first. He spoke softly. "I don't want to die." We moved him outside. He was naked, every stitch of clothing burned off of his body. A big man, about 300 pounds. He was bright red, like someone with a severe sunburn. Reminiscent of a baked stuffed lobster. Globs of skin were hanging from his body. Over and over he kept repeating the same words.

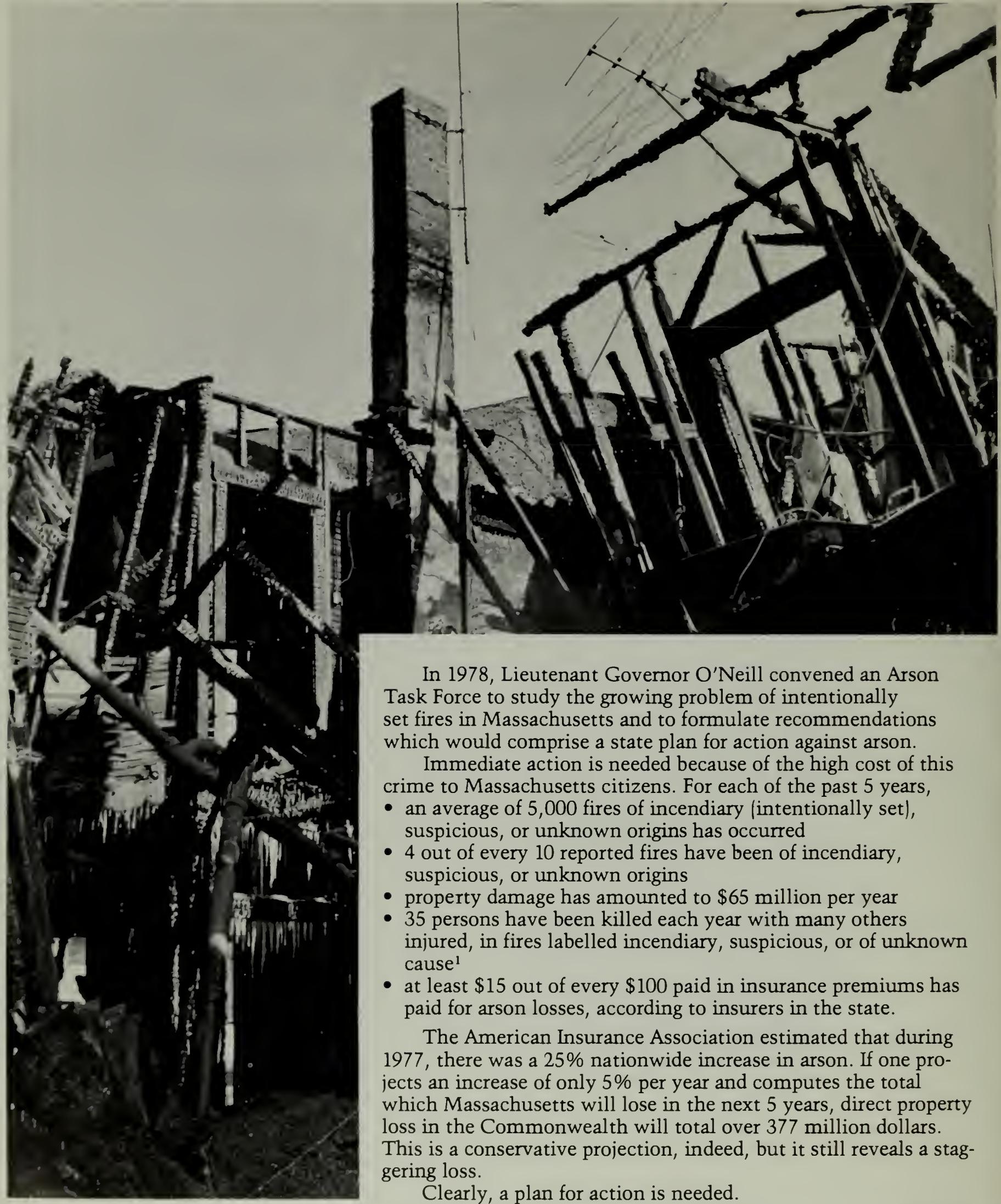
The fire is out now. We are searching through the rubble and mess that fire always leaves behind. We are silent, each man consumed by his own thoughts. We all know what we are looking for but no one wants to say anything. A voice from the front room says, "Over here." I got a glimpse of the baby as it was whisked past me. Burned to a crisp, charred-cooked-destroyed. Not a pretty picture.

I got angry, then my heart swelled up inside of me. I thought of my own children safe at home asleep. Later, we heard that the fire was of suspicious origin, possibly arson. Murder would be a better charge. If I were the judge, I would hang the perpetrator of this utterly ghastly crime. But what do I know? I'm only a person who works down here where the rubber meets the road—or where the skin peels from the body. If you please.

As a man working in an honorable profession, I join the victims of this crime in calling for justice. Authentic justice without any behind-the-scene politicking or sentence-cutting for convicted arsonists—murderers.

*Gerald Hogan is a Boston firefighter.
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The Program and the Plan



In 1978, Lieutenant Governor O'Neill convened an Arson Task Force to study the growing problem of intentionally set fires in Massachusetts and to formulate recommendations which would comprise a state plan for action against arson.

Immediate action is needed because of the high cost of this crime to Massachusetts citizens. For each of the past 5 years,

- an average of 5,000 fires of incendiary (intentionally set), suspicious, or unknown origins has occurred
- 4 out of every 10 reported fires have been of incendiary, suspicious, or unknown origins
- property damage has amounted to \$65 million per year
- 35 persons have been killed each year with many others injured, in fires labelled incendiary, suspicious, or of unknown cause¹
- at least \$15 out of every \$100 paid in insurance premiums has paid for arson losses, according to insurers in the state.

The American Insurance Association estimated that during 1977, there was a 25% nationwide increase in arson. If one projects an increase of only 5% per year and computes the total which Massachusetts will lose in the next 5 years, direct property loss in the Commonwealth will total over 377 million dollars. This is a conservative projection, indeed, but it still reveals a staggering loss.

Clearly, a plan for action is needed.

1. Statistics compiled by State Fire Marshal

The formulation of this plan was made possible through the voluntary service of those individuals on the Arson Task Force and by a grant from the United States Fire Administration. Two documents emerged from the efforts of the task force:

Arson Task Force Deliberations: a report on the deliberations, discussions, and full recommendations of the Arson Task Force

Arson for Profit: an extract from the *Arson Task Force Deliberations* which provides a shortened explanation of conditions which foster arson for economic profit and related recommendations

To gain a fuller understanding of arson which can be grouped into four motivational areas (vandalism, revenge, psychological appeasement, and economic gain), *Arson Task Force Deliberations* should be read. This document is directed only toward the causes of what is called "economic arson" and presents five strategies for action:

Causes

Strategies

1. Low risk of detection	Increase number and improve training and coordination of fire and law enforcement personnel
2. Non recognition of arson as a serious threat to the public	Improve data reporting and collection techniques and institute a public education program
3. High Profits	Improve insurance underwriting and claims procedures
4. Fluctuations in available credit	Institute legislative and administrative measures to curtail fluctuations
5. Instability in housing markets	Institute early prevention methods and evaluate program design and implementation

Plan Summary

Law Enforcement

- Mandatory basic training in arson cause, detection and evidence gathering
- Implement arson strike forces in all counties
- Assignment of one Assistant D.A. in each county to specialize in arson prosecution
- Develop sentencing guidelines for arsonists
- Implement local arson squads

Insurance Industry

- Increase Mass. FAIR Plan's ability to limit coverage
- Become the 49th state to implement provisions of New York Standard Fire Policy that relate to examination and payment
- Improve insurance underwriting and claims procedures
- Strengthen supervision of public adjusters
- Exchange claims information with law enforcement agencies

Fire Personnel	<ul style="list-style-type: none"> • Mandatory basic training in arson cause, detection and evidence gathering • Adequate staff for the State Fire Marshal's office • Acquisition of a mobile laboratory unit to serve outlying communities • Improve data capabilities in State Fire Marshal's office • Implement local arson squads
Lenders	<ul style="list-style-type: none"> • Support an anti-redlining statute • Comply with Community Reinvestment Act • Stop inflated lending practices • Set up mortgage review boards
Legislature	<ul style="list-style-type: none"> • Appropriate general revenue funds for mandatory arson training for fire and police personnel • Appropriate funds to the State Police to provide additional investigators to the State Fire Marshal's office and county strike force units • Appropriate general revenue funds to the State Fire Marshal's office for data analysis, investigative personnel, and a mobile laboratory unit • Pass an anti-redlining statute • Become the 49th state to adopt provisions of the New York Standard Fire Policy that relate to examination and payment • Enact legislation to allow suit for loss by public and private victims of arson against those convicted of the crime
Housing Agencies	<ul style="list-style-type: none"> • Monitor and target local and state activities in arson prone areas • Set up "house sitting" and "board up" programs for vacant properties • Target housing assistance programs to nonprofit organizations and low income households to rehabilitate vacant or abandoned properties • Improve present procedures of rent escrow, foreclosure, and transfer of abandoned/tax delinquent properties • Evaluate and modify program design and implementation to prevent abuse and negative impacts upon neighborhoods
Municipalities	<ul style="list-style-type: none"> • Institute local arson squads • Authorize training of Fire and Police personnel • Use public records to identify problem properties and act as a catalyst to bring together housing, lending and municipal representatives to offer solutions to troubled owners • Educate appropriate municipal agencies to characteristics of arson prone properties and arson schemes • Set up mutual aid agreements with towns to make efficient use of trained personnel

Two Prototypes of Arson

Arson for economic gain can take many forms; nevertheless, enough similarities exist to draw two classic models of arson for motives of economic gain.

The **arson for pure profit** scheme involves the buying of a building in an unstable housing market area; "milking" the building by charging high rents, making no repairs and paying no taxes. During this time, the property is transferred between "straw" or fake owners to raise the apparent value of the building, and re-insured for each escalated value. The building is then burned, and insurance proceeds are collected.

The **arson to relieve economic burdens** scenario involves an owner who buys a building for residential or commercial use. As expenses rise, the income from the property cannot keep pace with the costs, and the mortgage and tax payments fall into arrears. Code violations occur and as the property declines, it becomes more difficult to sell. As the owner becomes convinced that financial disaster is imminent, s/he decides to torch the building in order to escape an economic burden.

While the motives of both prototypes may differ, both turn to arson due to certain factors which make this crime attractive.



Causes of Economic Arson

- Low Risk Factor of Crime
- Nonrecognition of Arson as a Serious Threat to the Public
- High Profits of Arson
- Fluctuations in Availability of Credit
- Instability of Housing Market Conditions

Low Risk Factor of Crime



Arsonists know that the chances of conviction for the crime are less than 3 in 100.² This low conviction rate is a significant factor in the growing trend toward arson. There are several conditions which contribute to the low conviction rate.

1. Lack of accurate cause determination of fire

Failure to identify the cause of a fire as incendiary or suspicious means that the fire will not be investigated because the crime is undetected. While some communities have personnel trained in fire detection, such training is not mandatory.

2. Lack of training in evidence gathering

The methods by which evidence is noted, gathered, and stored have much to do with identification of criminal suspects and the preparation of a legal case against them. Training in these methods is not required of appropriate personnel in all cities, towns, and counties of Massachusetts.

3. Lack of local arson squads

Many communities have recognized the fact that efficient fire investigation demands the coordination of fire and police efforts, and have set up local arson squads. Such squads enable fire and police personnel to work *together* in an effective and efficient manner. Not all communities, however, have assigned personnel to such squads.

4. Lack of sufficient investigative personnel

The State Fire Marshal's Office has the responsibility and the power to investigate all fires; it lacks the personnel, however, to answer all requests for investigative aid. At present, there are 17 State Police Detectives and 4 technical specialists assigned to the marshal's office. In fiscal year 1977, this staff participated in 2,876 fire investigations, including 115 fatal fires. In such investigations, the determination of cause, alone, can involve from 2 hours to 2 days of a detective's time. Given such additional responsibilities as the enforcement of fire regulations, the current staff

2. Based upon statistics provided by State Fire Marshal's office

cannot, in most cases, afford the time for the lengthier, in-depth investigations necessary to uncover and prove fraud. As it now stands, they cannot even conduct an initial on-scene investigation of every fire of incendiary, suspicious or unknown origin. In 1977, 4,515 such fires were reported to the Fire Marshal's Office, and this figure includes *neither* those fires mistakenly attributed by some local departments to other causes, *nor* cases of automobile arson which are currently estimated at 7,000 incidents per year.

5. Lack of sufficient laboratory facilities

Presently laboratory facilities are based in Boston. Given the size of this state, outlying communities, who have need of analytic services, do not have easy access to these facilities. This situation adds a time impediment to on-going investigations in outlying communities.

6. Lack of clear lines of responsibility for arson investigations

Personnel from a fire department, a police department, and a District Attorney's office must all interact if arson cases are to be followed from cause detection through prosecution. In many communities, however, agencies are unclear as to their exact responsibilities; this can lead to conflict rather than cooperation of purpose. The value of cooperation becomes evident when one views past state efforts.

In January, 1977, the State Police instituted LEAA³-supported Arson Strike Force Units in selected locations, in order to coordinate the efforts of the local police and fire departments with the responsible District Attorney's office. Since that time, such units in Boston, Haverhill, Lawrence and Fall River have been responsible for the arrest of 75 persons. Other arrests from a unit in Lowell are pending. Fire chiefs in those districts report that arson dropped at least 50% *while these units were in operation*. Unfortunately, the State Police Bureau of Investigative Services lacks sufficient manpower to assign a *permanent* Arson Strike Force Unit to *every* District Attorney's office.

7. Court attitudes

Three court attitudes contribute to the low-risk factor for the crime of arson. One, there is a tendency to view defendants in arson cases as non-violent white collar criminals in spite of the fact that fire kills. This causes inconsistency in sentences assigned to those convicted. Two, there is a tendency for juries to believe that for a person to burn his own property to defraud an insurance company is not as malicious as the burning of another's property. Three, some prosecutors are not inclined to seek civil as well as criminal complaints against defendants. Such attitudes lower the risks even for those convicted of arson.

In order to increase the criminal risk, some state and federal actions have been taken. For the past year, the FBI has temporarily ranked arson in the same category with criminal homicide, forcible rape, and burglary; it is hoped this ranking will become permanent. On the state level, the Massachusetts Legislative Arson Commission, headed by Senator Michael LoPresti, Jr., and Representative Royal L. Bolling, Jr., filed legislation to mandate the serving of two thirds of a sentence before parole eligibility for those convicted of arson and arson related crimes. That bill has become law.⁴

To increase the risks attached to the crime of arson, the following recommendations are made.

3. Law Enforcement Assistance Administration

4. For other actions, see ARSON TASK FORCE DELIBERATIONS

Recommendations to Increase the Risk of Arson

Recommendation	Action	Actor
1. Basic Training in arson cause and detection and evidence gathering for all firefighters, police officers, and fire and police officials should be mandated by the legislature.	General Court should pass legislation and appropriate the "one time" cost of training existing personnel not yet skilled in these areas. Municipalities must authorize training.	Mass. General Court Municipalities
2. Special training programs need to be expanded in arson cause, detection, evidence gathering, and court witnessing.	Appropriation by legislature Cooperation among training agencies	Mass. General Court Mass. Criminal Justice Training Council (MCJTC) Mass State Police Academy Mass Fire Fighting Academy
3. Use Arson Strike Forces to improve procedures in arson detection, investigation, and prosecution among county and local fire and police personnel.	Continued funding by LEAA, USFA. Appropriation approved by legislature. Cooperation among law enforcement and fire officials.	Mass. General Court State Police District Attorneys Fire and Police Chiefs LEAA USFA
4. Set up Local Arson Squads	Local legislative action.	Cities and towns
5. Because arson investigators undergo more extensive training, efforts should be made to form mutual aid agreements between cities and surrounding towns to make the best use of individuals expertly trained and to hold down costs of such training.	Local legislative action. Cooperation among fire and police chiefs.	City and town authorities Local fire and police chiefs
6. Arson squads must be given adequate storage facilities.	Authorization	Cities and towns
7. Personnel needs of the State Fire Marshal's office must be met.	Appropriation to Division of State Police and Division of Fire Prevention.	Mass. General Court State Fire Marshal Secretary of Public Safety
8. A mobile laboratory unit to serve outlying communities in State Fire Marshal investigations should be acquired.	Circulation of specifications by State Fire Marshal Funding by USFA, LEAA, or Mass. General Court	State Fire Marshal Mass. General Court USFA LEAA



Recommendation	Action	Actor
9. Consider enactment of a law whereby any persons, including corporations or associations, such as insurance companies, and municipalities, sustaining damages to their business or property by reason of an arson fire, shall have the right to institute a suit against the responsible party(ies) to recover treble damages, reasonable attorney's fees, and court costs. Further, the Office of the Attorney General should be permitted to bring separate criminal and civil actions on behalf of the state which would impose upon the responsible parties severe fines, appropriate equitable sanctions, and a term of imprisonment.	Legislation	Mass General Court
10. District attorneys should coordinate efforts to stop arson rings operating across county lines and to create sentencing guidelines for arson conviction.	Administrative Action	District Attorneys Attorney General
11. Each district attorney should assign at least one assistant district attorney to handle all arson cases.	Administrative action	District Attorneys

Nonrecognition of Arson As A Serious Threat to The Public



Economic arson will continue to grow until citizen awareness demands a strong public response to combat the problem of arson. The lack of data and exchange of information between agencies affected has much to do with the non-recognition of arson as a growing crime. Four areas of weakness which hinder public awareness are listed below.

1. Lack of accurate detection of fires

What appears to be a fire caused by faulty electric wiring can be recognized as a set fire by the trained investigator. Because training in detection skills is not mandated for all fire and police personnel, some fires which should be classified as arson are not. Because of this, citizens may be unaware of a problem that exists in their town.

2. Prior lack of an efficient fire data reporting and analysis system

Massachusetts is well aware of the fact that its fire reporting system, instituted in the 1930's, needs to be updated and some efforts towards improvement have already been undertaken.

The State Fire Marshal's office was granted \$20,000 from the U.S. Fire Administration to develop, implement, and operate a comprehensive state fire incident and casualty reporting system. The Massachusetts Fire Incident Reporting System (MFIRS) will be in operation by 1980, and will provide data not only on the fire but also on the owner of the property, the insurance coverage, the public adjuster, the insurance agent and the insurance company involved.

The accuracy of statistics, however, directly depends upon the efficiency of the reporting procedures carried out by localities. Weak or inconsistent reporting procedures will mask arson problems and signal arsonists that it is safe to burn a building in a particular city or town.

3. Prior lack of sufficient criminal statistics on arson

Until recently, only arrest information was compiled for crimes of arson. For the past year, however, arson has been temporarily ranked as a Part I Crime for the FBI Uniform Crime Report. This means that the following has been compiled for statistical reports:

- volume
- trend
- rate
- clearance
- person arrested
- persons charged
- nature of offense

Were this ranking to become permanent, the compilation of information would cause citizens to become more aware of the incidence of arson in cities and towns.

4. Lack of a plan for the mutual exchange of information between insurance companies and law enforcement officials

MGL Chapter 148, Section 32, requires insurance companies to report all fire losses over \$1,000 to the State Fire Marshal.

The insurance industry, through the American Insurance Association, is currently establishing a computerized register of property loss insurance claims in excess of \$500. Identified as the Property Insurance Loss Register, PILR, it will record pertinent

information to help detect arson schemes by informing subscribers of recorded claims and information which bear similarities to a recent claim.

The insurance industry is willing to share this information with responsible public officials. A viable plan that can offer public agencies additional investigative capacity and can offer the insurance industry opportunities for withholding payment of fraudulent claims would ultimately benefit the public.

Because information on the trends and costs of arson increases the sensitivity of public agencies and citizens to the arson problem, arson data is a significant weapon in the battle against this crime. To enable the exchange of important information, the following recommendations are offered.

Recommendations for Recognition of the Threat of Arson

Recommendation	Action	Actor
1. The State Fire Marshal's office must be designated the Central Reporting Agency for all fires. Personnel capable of data system analysis should be retained to institute methods whereby data can be easily retrieved and analyzed. The State Fire Marshal shall then draw up Annual Fire Reports for the Commonwealth with a special analysis of arson.	Appropriation by legislature. Personnel action by State Fire Marshal and Commissioner of Public Safety	Commissioner of Public Safety State Fire Marshal Mass. General Court
2. Clear lines of responsibility need to be defined between the State Fire Marshal's office, local arson squads, and local fire and police chiefs to make sure that <i>all</i> incendiary fires are detected, reported and investigated .	Coordination and Administrative Action	Secretary of Public Safety
3. The State Fire Marshal, the Insurance Commissioner and the insurance industry should develop a plan for the mutual exchange of information needed for investigation and prosecution efforts. Proper safeguards must be established for the sharing of this information.	Coordination of Efforts Administrative Action by the Commissioner of Insurance Proper safeguards to be developed by Attorney General	State Fire Marshal Insurance Commissioner Insurance Industry Attorney General
4. Congress should pass legislation to rank arson permanently as a Part I Crime in the FBI Uniform Crime Report.	Legislation	Congress

High Profits of Arson



Another reason for the growth of economic arson lies in the fact that along with low risk comes high profit. These profits come from fraudulent claims on insurance policies, the premiums of which are paid by consumers. The insurance industry finds itself an unwilling victim, trapped between state regulations that require prompt payment of claims, and charges that they are lax in claims investigation and make settlements too easily. The reaping of high profits can be traced to several causes.

1. Manipulation of the FAIR Plan in "arson for profit" schemes

The law which requires fair access to insurance for all property owners was a governmental response to the urban riots of the 1960's. The FAIR (Fair Access to Insurance Requirements) Plan, created by the Massachusetts legislature in 1968, assures basic coverage to property owners unable to obtain it in the voluntary market. Designed to protect low income areas from abandonment, it has been misused in criminal arson schemes. Arsonists know that while properties with continuous bad loss records can be refused by ordinary insurance companies, the FAIR Plan cannot reject them on that basis. Also, although the FAIR Plan inspects all properties it insures, the bases upon which it can refuse insurance coverage are very limited.

2. Lack of immunity for agents and brokers supplying information during investigations

Prior to the passage of Chapter 148, Section 32 of Massachusetts General Laws, insurance companies could be sued by individuals for violation of the right to privacy laws if they supplied insurance information to law enforcement officials. While MGL § 32 gives qualified immunity to insurance companies, it does not protect agents and brokers, who may know a great deal about the client or property under investigation, if they provide information to law enforcement officials.

3. Permissive insurance application requirements

Presently, insurance applications need not be signed under penalty of perjury by those seeking coverage; therefore, the application procedure provides no deterrent to those considering arson schemes. Furthermore, prosecutors cannot file a charge of perjury against defendants on the basis of supplying an insurance company with blatantly misleading or incorrect information.

4. Insufficient investigation time allotment

Massachusetts law requires the acceptance or rejection of a fire insurance claim within 30 days from the time a figure has been presented. This does not allow insurance companies sufficient time to extensively investigate the property, books and accounts of the insured.

5. Insufficient supervision of public adjusters

Public adjusters, who examine the cause and degree of loss on behalf of the insured to determine the amount of the settlement and whose income is determined by the amount of the insurance settlement, are subject to no regulations regarding the suspension or revocation of licenses for fraudulent practices. Such regulations would protect those adjusters who consistently act in an unethical manner.

6. Lack of standard or "yardstick" values for property valuation

No simple standards exist to measure property value at the

time insurance coverage is written or at the time claims are settled. Furthermore, development of such standards is exceedingly difficult. Presently, Massachusetts law provides for indemnification to the insured and uses the "Broad Evidence Rule" (which includes considerations of original cost, cost of reproduction, fair market value, and the gainful use to which the property might have been put) to determine the actual cash value of the property. Lack of clear understanding of the "Broad Evidence Rule" by agents and applicants, and the prohibitive cost of appraising all property insured, can lead to willful or inadvertent overinsurance of property.

7. Poor communication of changes in property value

There are no clear lines of responsibility for notifying insurance companies of housing or health code violations cited by a state or municipal agency. Insurance coverage which should be limited or decreased due to poor property conditions may, therefore, remain at the same level or even increase to cover the costs of inflation.

To address these conditions which cause arson to be highly profitable, the following recommendations are made.

Recommendations to Reduce the Profits of Arson

Recommendations	Action	Actors
<p>1. Increase the FAIR Plan's ability to limit coverage or to refuse to insure or to cancel coverage when risk conditions justify such action. The following areas are offered for consideration:</p> <ul style="list-style-type: none"> • the property is substantially unoccupied and open to unauthorized persons • the real estate taxes are delinquent more than one year • dangerous conditions which affect life, health, or safety, particularly fire safety, are not corrected in a reasonable period of time, such as 10 days • the owner fails to furnish heat, water, or public lighting for more than 30 consecutive days • the building is abandoned • the owner has a history of unusual loss frequency • it is apparent that a significant moral hazard exists, i.e., a high potential that the building will burn. 	Administrative Action	Commissioner of Insurance



Recommendation	Action	Actor
<p>2. The cancellation section of the Massachusetts standard fire insurance policy should be amended from the present 20 days written notice requirement to five days written notice of cancellation to the insured and ten days written notice to any mortgagee. Such change would render Massachusetts in conformity with the New York standard fire policy, which is followed by 48 states.</p>	Legislation	Mass. General Court
<p>3. Improve training programs for insurance underwriting, claims and loss prevention personnel as respects the indemnity concept and the broad evidence rule with special attention to those situations where a property's fair market value is significantly lower than the structure's replacement cost, or replacement cost less depreciation. Insurers should utilize the principle of indemnity in their underwriting approach to value and establishment of amount of insurance, as well as settlement of losses. Agents, brokers, salesperson and other company personnel should explain insurance protection to property owners with more attention to the above.</p>	Administrative directive by Commissioner	Insurance Commissioner Insurance Industry
<p>4. Promote and strengthen the cooperation of insurers with public authorities in the detection, investigation, and prosecution of arson fraud by:</p> <ul style="list-style-type: none"> • providing agents and brokers with immunity from civil law suits when they exchange information with law enforcement officials pertaining to possible arson fraud. • continuing the development of training programs for arson prevention and investigation for all appropriate personnel including underwriters, claims examiners, adjusters, loss prevention engineers and investigators. • encourage insurers to thoroughly investigate all suspicious losses and to resist payment of the loss where such is warranted. 	Legislation by Mass. General Court Administrative Directive by Commissioner of Insurance	Mass. General Court Commissioner of Insurance

Recommendation	Action	Actor
<p>5. The insurance industry should implement an application to be signed by the applicant that will enable the insurer to estimate the actual cash value and to determine the actual ownership and otherwise evaluate the risk.</p> <p>This application should disclose information in the following areas:</p> <ul style="list-style-type: none"> • all persons with a direct or indirect interest of over 5% in the property; • provide sufficient information about the property for the insurer to determine its value permitting an amount of insurance consistent with the principle of indemnity; • all other coverage for the property which is in force or for which an application has been made; • any previous fire losses of \$1,000 or more on this or other properties; • property tax delinquency; and • the condition of the property and its occupancy level. <p><i>The task force recognized that certain types of property are more susceptible to arson and that, therefore, it may be necessary to create more than one application.</i></p> <p>If the responses to the initial application raised serious questions about the owner or the property, then the insurer should seek supplemental information from the applicant.</p> <p>The application should be deemed a part of the contract of insurance, thereby rendering a material misrepresentation on the application as grounds for voiding the policy from inception.</p> <p>The policyholder should be required to notify the insurance company of any material changes in the information provided on the application or in the property insured.</p>	Administrative Directive	Commissioner of Insurance
<p>6. Adopt the New York standard fire policy provisions used in 48 states which provide insurers the right to examine the books and accounts of the insured and the damaged property as often as may be reasonably required, and to require the insured to submit to examination under oath. Further, remove any legal impediments to the sharing of this information with law enforcement officials.</p>	<p>Legislation Administrative Directive</p>	<p>Mass. General Court Commissioner of Insurance</p>



Recommendation	Action	Actor
<p>7. The Commissioner of Insurance should explore the possible ramifications of the use of information available through the property insurance loss register in the insurance industry's underwriting selecting process.</p>	<p>Study and action, if deemed appropriate</p>	<p>Insurance Commissioner</p>
<p>8. Delay the acceptance or rejection requirement of a claim beyond the present 30 day statutory maximum should be allowed:</p> <ul style="list-style-type: none"> • in case of any fire loss or damage for up to 60 days from the time the insured shall have submitted a proof of loss • when an unregulated lender has made a mortgage loan, unless the unregulated lender provides all necessary documentation to support the mortgage. 	<p>Consultation and legislation.</p>	<p>General Court Commissioner of Insurance</p>
<p>9. Strengthen the supervision and review of licenced public adjusters by setting standards for the revocation of licenses, automatically suspending the license if the public adjuster is indicted for fraudulent practices, and automatically revoking it upon conviction thereof.</p>	<p>Administrative regulations.</p>	<p>Commissioner of Insurance</p>
<p>10. The insurer should be notified by the insured of any housing or health code violations cited by any state or municipal agency.</p>	<p>Administrative directive.</p>	<p>Commissioner of Insurance</p>
<p>11. Insurers should provide coverage for property under rehabilitation only as the work is completed.</p>	<p>Administrative directive</p>	<p>Commissioner of Insurance</p>
<p>12. The Massachusetts Legislative Arson Commission should study the feasibility of ascertaining yardsticks of valuation of property destroyed as a result of fire to facilitate the payment of fair and reasonable insurance claims.</p>	<p>Legislation</p>	<p>General Court</p>

Because profit motives underlie arson for economic gain, sources and patterns of lending in a given area are of crucial importance.

Lending sources are classified as regulated or unregulated. Regulated lenders are so called because they are chartered and overseen by state or federal authorities. These institutions are audited, must comply with industry-wide standards of practice, are limited to a legally prescribed loan-to-value ratio, and can be sued by depositors for breach of fiduciary responsibilities. Unregulated lenders include mortgage companies or individuals whose lending actions are prescribed by far fewer laws, and are not regulated by federal or state authorities.

The extent to which both regulated and unregulated lenders will assume loan risks depends upon the "lending climate" and "general neighborhood health" of a given area. Components such as economic conditions, stability of property values, adequacy of city services, property maintenance, and locational factors all determine availability of credit.

Availability of loans and fluctuations in lending patterns can provide the impetus and the opportunity for would be arsonists.

1. Opportunities to manipulate lending sources

Certainly, most loans extended by unregulated lenders are legitimate. It is easier, however, for those involved in arson schemes to manipulate this process through the use of second or third "paper loans" to show an increase in building values to insurance companies in order to acquire additional coverage.

This problem is best handled through insurance application and settlement procedures due to problems in enforcing regulations geared towards unregulated lenders.

2. General availability of credit is too limited in some areas.

If credit is unavailable due to "redlining", i.e., the systematic refusal of lending institutions to issue mortgages or loans in certain neighborhoods, or due to unavailability of money in recessive economic times, a property owner can fall prey to arson to relieve economic burdens.

Some actions to alleviate the problem of limited credit have already been taken.

The Community Reinvestment Act (CRA) provides federal financial regulatory agencies and state banking commissioners with a tool to use in encouraging federally regulated and state chartered financial institutions to service the credit needs of their local communities without excluding low and moderate income neighborhoods. The Massachusetts Banking Commission has adopted the CRA and has required all state chartered institutions to prepare and maintain for inspection a CRA statement.

In some areas, mortgage review boards have been set up by financial regulators. Such voluntary boards allow lenders and neighborhood leaders to deal with specific rejected mortgage applications and have proved highly successful.

If accessibility to loans is improved, one of the conditions which foster arson will be altered.

3. Inflated lending

Inflated lending occurs when loans in excess of the collateral value of the property are issued. Although such loans are not

Fluctuations in Availability of Credit



generally made, the fact that state and federally regulated institutions will recoup losses through insurance settlement claims considerably limits their risk in lending; therefore, lenders may not be adequately deterred from overlending.

In response to the above problems, the following recommendations are made:

Recommendations to Reduce Fluctuations in the Availability of Credit

Recommendation	Action	Actor
1. The Legislature should pass an anti-redlining statute.	Legislation	Massachusetts General Court
2. The Commissioner of Banks and other federal financial regulators should make sure that all lending institutions have complied with the community reinvestment act (CRA) and establish penalties for noncompliance.	Administrative directives	Commissioner of Banks Federal Financial Regulators
3. All communities, which have not already done so, should set up voluntary mortgage review boards.	Coordinate efforts of lenders and neighborhood leaders.	Municipal Officials
4. Either the scope of mortgage review boards should be expanded or a separate review board including housing, insurance, lending, municipal and neighborhood representatives should be set up to discuss ways to attack specific problems in arson prone areas. Such boards should discuss: <ul style="list-style-type: none"> • the degree and cause of variance of lending risks within an area • ways to increase levels of demand for owner occupied housing • ways to reduce the problem of clearly overinsured neighborhood and properties 	Municipal agencies should take the role of coordinating these groups.	Municipal agencies Neighborhood groups Lending representatives Insurance representatives Housing representatives

Housing market conditions are generally stable enough to withstand variations of the market itself. However, when significant changes take place in the housing market—such as when unexpected, sudden rises in demand exceed the existing supply of housing in a neighborhood or when widespread residential abandonment seriously reduces the demand for housing in the area—conditions are created which provide incentives for arson. The crime is committed to relieve an economic burden for the owner or to make a pure profit from insurance proceeds for the investor.

Severe fluctuations in the local housing market result in the following:

1. The costs of maintaining buildings in a given area begin to exceed the income obtainable through building use

Maintenance expenses can include taxes, mortgages, insurance premiums and general operating expenses. Over a period of time, the owner finds herself/himself unable to meet the costs of maintaining property ownership and looks for ways to get rid of the liability.

2. Further expenses cannot be justified by rents obtainable in a given market

When rents that can be obtained in a given area are not high enough to justify building repair or renovation, an owner may find herself/himself unable to obtain credit and, as the building deteriorates, unable to sell it. Both the owner and the mortgage holders are thus unable to recoup investments and the housing stock surrounding the troubled building lowers in value. Such a cycle causes instability in the housing market as investors perceive increased risks and seek ways to cut their losses.

3. Unstable conditions of the housing market obscures the fair market value of the property

Market instability can take the form of an upward or downward swing, but in both cases, the true value of the property becomes obscured and vulnerable to manipulation by unscrupulous owners or realtors, thereby creating the incentives for arson.

Examples of market instability which give rise to these conditions are as follows:

- a. Gentrification or the upgrading of old, sometimes historic neighborhoods, to house upper income persons who, sensing the trend away from suburban living, seek to own or rent homes in urban areas. This sudden rise in demand rapidly inflates surrounding property values.
- b. Blockbusting or the buying of property at deflated values by convincing owners that property values are rapidly declining due to minority encroachment and then reselling at inflated prices.
- c. An influx of transient tenants, such as students, which may drive rents upward or downward or cause longtime tenants to seek housing elsewhere. Thus, the fluctuation of demand keeps building values in the area uncertain.

The result of these unstabilizing trends is that owners who perceive their property values escalating in a gentrifying neighborhood or declining in one being abandoned or vacated, turn to

Instability of Housing Market Conditions



arson as a way to rid themselves of economically unfeasible properties, to increase the value of the land on which their buildings sit or to collect a profit from the insurance companies.

4. Poorly designed and/or uncoordinated public programs are misused or exploited

Housing programs designed to foster growth and stability in generally declining areas sometimes work to the detriment of neighborhoods. Code enforcement programs, for example, when not coupled with "rehab" assistance for the owners, may impose an unreasonable hardship for those already in serious financial conditions. Lucrative public programs which are not properly managed tend to lend themselves to abuse and exploitation by profit-motivated investors.

To aid in the solution of these problems, the following recommendations are offered:

Recommendations to Increase Housing Market Stability

Recommendation	Action	Actor
1. The Executive Office of Communities and Development (EOCD) should act as a coordinating mechanism to monitor and target all state activities in selected neighborhoods considered arson prone and to develop a state strategy for early arson prevention in such areas.	Coordination of information Collection and dispersal	EOCD
2. EOCD and the Department of Housing and Urban Development (HUD) should work with local agencies to target Section 312, urban homesteading funds and other housing assistance programs to aid nonprofit organizations and low income households to rehabilitate vacant or abandoned structures in neighborhoods and to put them to productive use.	Coordination of efforts	EOCD HUD Appropriate local agencies
3. Use public records to identify buildings which are problem properties. Municipal agencies should involve lending and housing authorities to offer viable options to owners. Review board recommended in "Fluctuations in Availability of Credit" section may act as a forum to discuss alternatives which might be offered to owners.	Coordination of efforts and discussion with owner	Municipal Housing Agency
4. Local agencies, with the support of EOCD and HUD, should work with neighborhood groups to keep vacant buildings occupied through "house sitting programs" or should undertake "board up" programs to secure vacant buildings.	Organization and coordination of efforts	EOCD HUD Local agencies

Recommendation	Action	Actor
5. The Neighborhood Reinvestment Corporation, municipalities, owners, and tenants, working with EOCD, should rehabilitate buildings through the apartment improvement program .	Coordination of rehabilitation efforts	Neighborhood Reinvestment Corporation
6. EOCD should work with the legislature to improve present procedures for rent escrow , foreclosure and the transfer of tax-delinquent/abandoned properties .	Legislative and administrative improvements of present procedures	Mass. General Court EOCD Appropriate state and local agencies
7. Appropriate federal and state agencies should evaluate and modify existing program designs and implementation procedures to prevent their abuse and to eliminate any negative impacts they may have on neighborhoods.	Study and design of programs	Agencies providing federal and state support



Program Cost Considerations



Not all recommendations presented in this report or *Arson Task Force Deliberations* call for an appropriation of funds. Some, however, do. In consideration of "caps" on local spending, strained municipal budgets, and limitations on state spending, recommendations which call for expenditure of funds are not made lightly. Whenever it has been possible to calculate projected costs of suggested programs, it has been done and those figures have been included in *Arson Task Force Deliberations*. Other costs, however, cannot be calculated due to variations in municipal procedures and funding sources.

When costs are considered, however, it is important to remember that last year, the national direct loss attributed to arson was estimated by the U.S. Fire Administration to total 1.3 billion dollars. This figure is comparable to losses attributed to other major crimes such as larceny theft (\$1.1 billion) or burglary (\$1.4 billion). Additional costs of arson which are not possible to project include:

- cost of jobs lost
- tax revenue lost
- loss of housing stock
- cost of neighborhood deterioration
- medical and rehabilitative expenses for fire service and civilian personnel injured
- loss of municipal equipment
- demolition expenses
- investigative costs for law enforcement agencies
- costs involved in prosecuting arson cases

What we do know, however, is that Massachusetts has averaged a direct property loss of \$65 million per year in spite of reporting deficiencies in the present data collection system. Using this conservative estimate, direct property loss to the Commonwealth over the past 5 years has totaled \$325 million. If one projects a 5% increase in the cost of arson for the next 5 years, which is well below the double digit inflation which Massachusetts is experiencing, the cost over the next 5 years will total \$377 million. This will mean that Massachusetts will have lost \$702 million due to intentionally set fires over a 10 year period. In comparison, the funding of one key cost item—additional State Police to institute an arson strike force unit in each county—will cost Massachusetts approximately \$2 million over the next 5 years. It is an investment worth considering.

Massachusetts must now decide if its public and private agencies will fund programs to decrease the incidence of arson or will allow arsonists to reap the benefits of citizens' dollars by burning buildings for profit.

Photographs courtesy of: *The Boston Herald American*; Massachusetts Property Insurance Underwriting Assoc.; Ron Rolo, *The Standard Times*; Bureau of Photography, Massachusetts State Police; Susan Peltier, Massachusetts Firefighting Academy.

